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MINISTRY OF LAW

New Delhi, the 1st October, 1953.

The following President's Act enacted on the 1st October, 1953 is published for general information :—

THE PATIALA AND EAST PUNJAB STATES UNION OPIUM SMOKING ACT, 1953

No. 4 OF 1953

[1st October, 1953.]

An Act to provide for the control of the practice of smoking prepared opium and to secure the ultimate prohibition of smoking of prepared opium in the State of Patiala and East Punjab States Union.

In exercise of the powers conferred by section 3 of the Patiala and East Punjab States Union Legislature (Delegation of Powers) Act, 1953 (22 of 1953), the President is pleased to enact as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Patiala and East Punjab States Union Opium Smoking Act, 1953.

(2) It extends to the whole of the State of Patiala and East Punjab States Union.

(3) It shall come into force at once.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "opium" has the same meaning as in the Opium Act, 1878 (I of 1878);

(b) "place" includes a building, house, shop, pool, *chhappar*, enclosure, tent, vessel, raft and vehicle and any part thereof;

(c) "prepared opium" means any product or admixture of opium obtained by any operation or series of operations designed to transform opium into an extract suitable for smoking, and

includes *chandu*, *madak* and the dross or other residue remaining after opium is smoked;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "register" means the register of smokers of prepared opium maintained by or under the authority of the State Government before the commencement of this Act; and

(f) "registered smoker" means a person whose name is entered in the register, at any time before the commencement of this Act, as a smoker of prepared opium.

3. Prohibition of smoking of prepared opium by persons other than registered smokers.—No person, other than a registered smoker, shall, after the commencement of this Act, smoke prepared opium.

4. No fresh entry to be made in the register.—(1) No fresh names as smokers of prepared opium shall be entered in the register after the commencement of this Act.

(2) Subject to the provisions of sub-section (1), the prescribed authority may, at any time, of its own motion or on application by any interested person, omit the name of any person from the register, or correct in the prescribed manner any error or defect in any entry in the register.

(3) The register shall be deemed to be a public document within the meaning of the Indian Evidence Act, 1872 (I of 1872).

5. Right of registered smoker to manufacture opium.—(1) A registered smoker shall, subject to such conditions as may be prescribed, be entitled to manufacture prepared opium not exceeding half a tola and to keep it in his possession for personal use only.

(2) Any registered smoker who has, in his possession, prepared opium in contravention of the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

6. Penalty for un-registered smokers.—(1) Any person, other than a registered smoker, who—

(a) manufactures prepared opium; or

(b) has in his possession any prepared opium; or

(c) has in his possession any pipes or any other utensils or apparatus used in connection with the manufacture or smoking of prepared opium;

shall be punishable with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

(2) Any person, other than a registered smoker, who smokes or otherwise uses prepared opium shall be punishable—

(a) for a first offence, with imprisonment which may extend to two months, or with fine or with both; and

(b) for any second or subsequent offence, with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

7. Punishment for allowing places to be used for the commission of an offence or for selling or dealing in prepared opium.—Whoever,—

(a) being the owner, or occupier, or having the use, of any place, knowingly permits it to be used by any person other than a registered smoker for manufacturing or smoking prepared opium, or

(b) sells or otherwise deals in prepared opium, shall be punishable with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

8. Power to issue warrants.—Any district magistrate or sub-divisional magistrate who, upon information received and after such inquiry (if any) as he considers necessary, has reason to believe that any place is being or is likely to be used for the commission of an offence punishable under section 6 or section 7 may issue a warrant to an officer of the excise department, not below the rank of sub-inspector, empowering him—

(a) to enter such place by day or night with any person whose assistance such officer may consider necessary;

(b) to search all parts of such place in which such officer has reason to believe that any opium or appliance for the manufacture of prepared opium or for the smoking of opium is concealed and all or any persons whom he may find in such place;

(c) to arrest all persons—

(i) whom such officer may find in such place actually engaged in smoking prepared opium; or

(ii) whom such officer reasonably suspects of having smoked prepared opium in such place immediately before his entry therein; or

(iii) from whose possession, prepared opium is recovered;

(d) to seize all opium and appliances for the smoking of prepared opium or for the manufacture of prepared opium which may be found in such place.

9. Power of entry, search, seizure, arrest without warrant.—(1) Any officer of the excise department, not below the rank of sub-inspector, who has reason to believe from personal knowledge or upon information given by any person and taken down in writing that an offence punishable under section 6 or section 7 has been, is being, or is about to be, committed, or that an article liable to confiscation under this Act is kept or concealed in any place, may, between sunrise and sunset,—

(a) enter any such place;

(b) in case of resistance, break open any door and remove any such obstacle to such entry;

(c) seize all opium and appliances for the smoking of prepared opium or for the manufacture of prepared opium and any

other article which he has reason to believe to be liable to confiscation under section 14 and which may be found in such place;

(d) detain and search, and, if he thinks proper, arrest any person whom he has reason to believe to have committed an offence punishable under section 6 or section 7:

Provided that if such officer has reason to believe that a search warrant cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may enter and search such place at any time between sunset and sunrise after recording the grounds for his belief.

(2) Where an officer takes down any information in writing under sub-section (1), or records grounds for his belief under the proviso thereto, he shall forthwith send a copy thereof to his immediate official superior.

10. Searches how made.—The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), shall apply in so far as they are not inconsistent with the provisions of section 8 and section 9 to all warrants issued and arrests and searches made under the said sections.

11. Provision for bail and security.—When any person arrested under this Act is prepared to furnish bail, he shall be released on bail, or, in the discretion of the officer making the arrest, on his own bond.

12. Procedure after arrest and seizure.—(1) Whenever any person makes any arrest or seizure under this Act, he shall, within a period of twenty-four hours after such arrest or seizure—

(a) make a full report giving particulars of such arrest or seizure to his immediate official superior; and

(b) unless bail or, as the case may be, a bond has been accepted under section 11, produce the person arrested or the articles seized, if the arrest or seizure was made—

(i) in pursuance of a warrant issued under section 8, to the authority by whom the warrant was issued; or

(ii) under section 9, to the nearest magistrate.

(2) The authority or magistrate to whom any person or article is produced under sub-section (1) shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or article.

13. Officers of certain departments to help excise officers.—Every officer of the police and the land revenue departments shall upon notice given or request made, be legally bound to give reasonable aid to any officer of the excise department in carrying out the provisions of this Act.

14. Forfeiture of illicit articles.—On the conviction of any person for any offence under this Act, the Court may order that any opium or any instrument or appliance in respect of, or by means of, which such offence has been committed, or any receptacle, package or covering in which such opium, instrument or appliance has been

found and any other contents of such receptacle, package or covering shall be forfeited to the Government.

15. Jurisdiction to try offences.—No magistrate other than a magistrate of the first class, or a magistrate of the second class specially empowered in this behalf shall try any offence punishable under this Act.

16. Indemnity.—No suit, prosecution or other legal proceeding whatever shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

17. Power to make rules.—(1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the circumstances in which an entry in the register may be omitted;

(b) the authority by whom and the manner in which any error or defect in an entry in the register may be corrected or any entry may be omitted;

(c) the conditions and restrictions subject to which a registered smoker may manufacture, possess or smoke prepared opium;

(d) the payment of rewards out of fines imposed under this Act.

18. Repeal and savings.—(1) The Patiala Opium Smoking Act, 1988 BK. (I of 1988 BK.), is hereby repealed.

(2) The provisions of section 6 of the General Clauses Act, 1897 (X of 1897) shall apply in relation to the repeal of the said Act as if the said Act had been an enactment and this Act a Central Act.

RAJENDRA PRASAD,
President.

K. Y. BHANDARKAR,
Secy. to the Govt. of India.

Reasons for the enactment

The Act provides for the control of the practice of opium smoking with a view to securing its ultimate prohibition in the State of the Patiala and East Punjab States Union. A similar law exists in almost all other States. Under the Act, every person who is addicted to opium smoking and who is registered as a smoker of prepared opium will be entitled to manufacture prepared opium not exceeding half a tola and to keep such quantity of prepared opium in his possession

for his personal use only. Persons who are not registered are absolutely prohibited from smoking opium. The Government of the Patiala and East Punjab States Union is already maintaining a register of opium smokers which shall be deemed to be the register of opium smokers for the purposes of the Act. No fresh entry will be made in the register after the 30th September, 1953 in accordance with the decision of the Government of India.

2. In view of the provisions of the Act, the Patiala Smoking Act, 1988BK., which merely prohibits the smoking of opium in an assembly is being repealed.

3. The Committee appointed under the proviso to sub-section (2) of section 3 of the Patiala and East Punjab States Union Legislature (Delegation of Powers) Act, 1953, has approved the enactment of this measure.

C. S. VENKATACHAR,
Secy. to the Govt. of India,
Ministry of States.